

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

CEARA LYNN STURGIS

PLAINTIFF

VS.

CIVIL ACTION NO. 3:10cv455-TSL-FKB

**COPIAH COUNTY SCHOOL DISTRICT;
RICKEY CLOPTON, the Superintendent of
Copiah County School District; and RONALD
GREER, the Principal of Wesson Attendance Center**

DEFENDANTS

MOTION TO DISMISS

COME NOW Defendants Copiah County School District (“the District”), Rickey Clopton and Ronald Greer, collectively referred to as “Defendants,” by counsel and pursuant to Federal Rule of Civil Procedure 12(b)(6), and file their Motion to Dismiss. In support thereof, Defendants would show unto the Court as follows:

1. Plaintiff Ceara Lynn Sturgis (“Ms. Sturgis”), a former District student, claims she is entitled to damages in connection with her allegation that Defendants wrongfully refused to permit her to appear in the senior photo section of the school yearbook wearing a tuxedo instead of a “drape.” Ms. Sturgis asserts the following causes of action against Defendants: (1) sex-based discrimination in violation of Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681 et seq. (against the District only); and (2) sex-based discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution (against all Defendants), brought through the 42 U.S.C. § 1983 procedural vehicle. These claims must be dismissed in their entirety, with prejudice, as against Defendants.

2. A court considering a motion to dismiss brought under Rule 12(b)(6) looks to the pleadings and accepts as true those allegations which are well-pleaded and views them favorably towards the plaintiff. Jones v. Geninger, 188 F.3d 322, 324 (5th Cir. 1999). Where a plaintiff is

unable to or simply does not assert a set of facts that would support her claim, she fails to state a claim upon which relief may be granted. Highland Falls-Fort Montgomery Cent. Sch. Dist. v. United States, 48 F.3d 1166, 1169 (Fed. Cir. 1995).

3. Accepting as true only the well-pleaded factual allegations asserted by Ms. Sturgis, and pursuant to Rule 12(b)(6), Defendants are entitled to dismissal of all claims, causes of action and the First Amended Complaint brought by Ms. Sturgis. Ms. Sturgis' Fourteenth Amendment Equal Protection claims (asserted through Section 1983), as well as her Title IX claims, cannot survive because she has wholly failed to assert a constitutionally protected right or to plead any legally cognizable discriminatory act on the part of Defendants. In addition, Ms. Sturgis has not alleged, nor can she prove, the involvement of a policymaker or the existence of an official policy or custom to violate the Constitution as are required for claims asserted pursuant to Section 1983. Finally, Ms. Sturgis' claims against Rickey Clopton and Ronald Greer in their official capacities are duplicative under prevailing authority and must be dismissed.

4. For the reasons set forth herein, which are discussed in much greater detail in Defendants' accompanying Memorandum in Support of their Motion to Dismiss, Ms. Sturgis' claims must be dismissed with prejudice.

5. In support of the instant Motion, Defendants also submit the following documents to the Court for its consideration:

- a. Youngblood Complaint, Exhibit 1;
- b. Youngblood Order, Exhibit 2; and
- c. Youngblood Docket Sheet, Exhibit 3.

WHEREFORE, PREMISES CONSIDERED, Defendants Copiah County School District, Rickey Clopton and Ronald Greer respectfully request that this Court enter an order granting the instant Motion to Dismiss, dismissing with prejudice all of Ms. Sturgis' claims and her First Amended Complaint. Defendants also pray for any and all other and further relief as

the Court deems appropriate.

RESPECTFULLY SUBMITTED, this the 1st day of October, 2010.

**COPIAH COUNTY SCHOOL DISTRICT,
RICKEY CLOPTON AND RONALD GREER**

By: s/ R. Jarrad Garner
One of Their Attorneys

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CERTIFICATE OF SERVICE

I, R. Jarrad Garner, one of the attorneys for Defendants, do hereby certify that I have this day filed the foregoing document via the ECF electronic filing system, which sent notice to the following counsel of record:

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Dated: October 1, 2010.

s/ R. Jarrad Garner
R. Jarrad Garner